

BULLETIN

TOWN OF NORTH ANDOVER



2007 ANNUAL TOWN MEETING

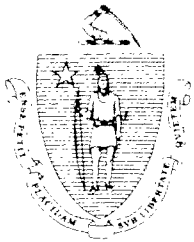
ADOPTION OF BYLAWS

Enclosed in this bulletin are Zoning Bylaws and Maps adopted by the Dissolved Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007, and June 4, 2007 and dissolved on June 4, 2007. Bylaws are as approved by the Office of the Attorney General dated October 2, 2007 – CASE #4430. All maps and bylaws as voted and approved are included herein with the exception of Article 27 and 28 which require additional approval from the Department of Housing and Community Development and will be posted under separate cover once that approval is received. Copies of this bulletin are available at the Town Building 120 Main Street, Steven's Memorial Library 345 Main Street, and Office of Community Development 1600 Osgood Street all in North Andover. This bulletin is posted in two locations in each voting precinct (eight) in accordance with Massachusetts General Laws Chapter 40 Section 32. Copies of this Bulletin are available on request by calling the Office of the Town Clerk at (978) 688-9502 and this bulletin is posted on the Town of North Andover website www.townofnorthandover.com.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment of zoning bylaws may only be made within ninety days of this posting.

POSTED: October 31, 2007

JOYCE A. BRADSHAW, CMMC, TOWN CLERK



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

WESTERN MASSACHUSETTS 2007 OCT -4 AM 11:03
1350 MAIN STREET

SPRINGFIELD, MASSACHUSETTS 01103-1629

MARTHA COAKLEY
ATTORNEY GENERAL

NOTIFIED
MASSACHUSETTS

(413) 784-1240
www.ago.state.ma.us

October 2, 2007

Joyce A. Bradshaw, Town Clerk
120 Main Street
North Andover, MA 01845

RE: North Andover Annual Town Meeting of May 14, 2007 — Case # 4430
Warrant Articles # 38, 39, 47, 48, and 49 (General)
Warrant Articles # 27, 28, 30, 36, and 37 (Zoning)

Dear Ms. Bradshaw:

Articles 28, 30, 36, 37, 38, 39, 47, 48, and 49 - I return with the approval of this Office the amendments to the town by-laws adopted under these Articles on the warrant for the North Andover annual town meeting that convened on May 14, 2007, and the maps pertaining to Articles 28 and 30.

Article 27 - I return with the approval of this Office the amendments adopted under this Article, except as provided below.

The amendments adopted under Article 27 add to the town's zoning by-laws a new Section 17, "Osgood Smart Growth Overlay District" (OSGOD). The proposed by-law was adopted pursuant to General Laws Chapter 40R and the regulations adopted thereunder. General Laws Chapter 40R allows municipalities to encourage housing production that is aligned with the principles of "smart growth" and in doing so towns may obtain financial and other incentives accorded exclusively to Smart Growth Zoning Districts. General Laws Chapter 40R prescribes the methods for a town to establish a Smart Growth Zoning District and requires approval by this Office and by the Department of Housing and Community Development (DHCD).

We point out that the town must still comply with the provisions of G.L. c. 40R, § 4 (b), by obtaining final approval from DHCD of the "Smart Growth Overlay District." Our approval of the amendments adopted under Article 27 is conditioned upon approval by DHCD. Thus, the amendments adopted under Article 27 do not take effect unless and until it receives both such approvals and the town clerk posts and publishes the by-law provisions in accordance with G.L. c. 40, § 32. We also



caution the town that it may not be eligible for financial and other incentives until it receives final approval from DHCD. We suggest that the town discuss this issue in more detail with town counsel and directly with DHCD.

Section 17.4 pertains to the administration, enforcement, and appeal of the 40R by-law and would have provided in pertinent part as follows:

The Building Inspector shall not issue a building permit for a development until he is reasonably satisfied that a Plan Approval has issued for the development. Any building permit issued by the Building Inspector shall become invalid unless the work authorized by it shall have been commenced within the meaning of the Enabling Laws within six (6) months after its issuance, which shall be automatically extended for the duration of any appeal or challenge to such building permit and which may be further extended, as allowed in writing by the Building Inspector pursuant to the State Building Code.

(Emphasis added.)

We disapprove and delete the above underlined text from Section 17.4 as inconsistent with the State Building Code. **[Disapproval # 1 of 1]** Beginning with Chapter 802 of the Acts of 1972, as amended by Chapter 541 of the Acts of 1974, the Legislature eliminated local building codes, the purpose of which was to create a state-wide "comprehensive" state building code, which it intended should be applied uniformly throughout all the communities of the Commonwealth. Today, any town seeking to enforce regulations more restrictive than those currently imposed under the State Building Code must request that the State Board of Regulations and Standards adopt such regulation. G.L. c. 143, § 98. The Board will grant such a request only upon a finding, after conducting a public hearing, "that more restrictive standards are reasonably necessary because of special conditions prevailing within such city or town and that such standards conform with accepted national and local engineering and fire prevention practices, with public safety and with the general purposes of a statewide building code" *Id.*

The issuance and duration of a "building permit" is preemptively governed by the State Building Code. See State Building Code, 6th Edition, 780 C.M.R. §§ 111.2 and 111.8. The State Building Code not only authorizes but requires the Building Inspector (as Code Enforcement Officer under the State Building Code) to issue a building permit where the applicant has demonstrated compliance with the Code and the town's zoning by-laws. G.L. c. 40A, § 7, and 780 C.M.R. § 111.2. The above quoted text would determine when the building permit is issued and would limit the lifespan of the building permit. Therefore, we disapprove and delete the above underlined text in Section 17.4.

We specifically call the town's attention to Section 17.6.1, which pertains to the Residential Mixed-use Zone of the OSGOD. Section 17.6.1.3 pertains to uses allowed by special permit in the Residential Mixed-use Zone of the OSGOD and provides in pertinent part as follows:

The following uses shall be permitted in the Residential Mixed Use Zone by Plan Approval Special Permit issued by the Plan Approval Authority pursuant to the provisions of Section 17.6.5:

*

*

*

3. Nursing and Convalescent Homes;
4. Commuter Rail System; and . . .

Section 17.6.1.3 (3) requires a special permit for nursing and convalescent homes in the new Residential Mixed-Use Zone of the OSGOD. In approving this text, we caution the town on the protections accorded to certain uses under G.L. c. 40A, § 3, which provides in pertinent part as follows:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. The provisions of this paragraph shall apply to every city or town, including, but not limited to the city of Boston and the city of Cambridge.

General Laws Chapter 40A, Section 3, prohibits discrimination against disabled persons. We caution the town that it would be inconsistent with G.L. c. 40A, § 3, for the town to apply or enforce its by-laws in a way that treats buildings and uses for the disabled with any less deference given to other similar types of buildings and uses projects. Such difference in treatment would violate the provisions of G.L. c. 40A, § 3.

We also point out that Section 17.6.1.3 (4) requires a special permit for commuter rail systems. We also call the town's attention to Section 17.6.3, which pertains to the Business Opportunity Zone in the OSGOD. Section 17.6.3.3 (1) pertains to uses allowed in the Business Opportunity Zone and requires a special permit for commuter rail systems. It is not clear whether a commuter rail system would be built or owned by the federal, state, or local government or a private party or some type of combination of these entities. In approving Sections 17.6.1.3 (4) and 17.6.3.3 (1), we point out that the state and federal government are exempt from local regulation unless the state or federal government has chosen to submit to local regulation.

"The doctrine of federal supremacy protects the legitimate activities of the United States government from regulation by state and local authorities." May v. United States, 319 U.S. 441, 445-48 (1943) (a state could not impose an inspection fee on fertilizer owned by the United States. "It is necessary for uniformity that the laws of the United States be dominant over those of any state."); United States Constitution, art. VI, clause 2 (the "supremacy clause"); Township of Middletown v.

United States Postal Service, 601 F. Supp. 125, 127-28 (D. N.J. 1985) (local zoning regulations inapplicable to the Postal Service's construction plans).

The "State and State instrumentalities are immune from municipal zoning regulations, unless a statute otherwise expressly provides to the contrary." Inspector of Buildings of Salem v. Salem State College, 28 Mass. App. Ct. 92, 95 (1989) (The Commonwealth's immunity from zoning regulation is broader than the exemption for as of right uses created in G.L. c. 40A, § 3); County Commissioners of Bristol v. Conservation Commissioners of Dartmouth, 380 Mass. 706, 708-711 (1980) (neither Home Rule Amendment or the Zoning Enabling Act changed presumption of state and county immunity from municipal zoning). Thus, we caution the town to apply its requirement for site plan review for governmental uses in a manner consistent with state and federal law.

We next call the town's attention to Section 17.6.2, which pertains to the Mixed-Use Development Zone of the OSGOD. Section 17.6.2.3 (11) pertains to uses allowed by special permit in the Mixed-Use Development Zone of the OSGOD and provides that non-profit schools are allowed by special permit. We also call the town's attention to Section 17.6.3.3 (5), which allows non-profit schools by special permit in the Business Opportunity Zone. In approving these portions of Sections 17.6.2.3 (11) and 17.6.3.3 (5), we call the town's attention to the protections accorded to such uses under G.L. c. 40A, § 3. General Laws Chapter 40A, Section 3, provides in pertinent part:

No zoning . . . by-law shall prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements

(Emphasis added.)

Section 3 provides exemptions from local zoning for the use of land or structures for certain educational uses, but authorizes the reasonable regulation of such uses in eight areas. Such uses may be subject to reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. As stated in more detail above, G.L. c. 40A, § 3, provides exemptions for the use of land or structures for certain educational uses. Thus, if an educational use enjoys protections under G.L. c. 40A, § 3, it would be inconsistent with state law to prohibit, regulate, or restrict, including requiring a special permit for such use. Therefore, the town must apply Sections 17.6.2.3 and 17.6.3.3 in a manner consistent with G.L. c. 40A, § 3.

We next call the town's attention to Section 17.6.4, which pertains to prohibited uses and provides that all uses not expressly allowed are prohibited. In approving Section 17.6.4, we remind the town of the protections accorded to certain uses and structures under G.L. c. 40A, § 3. General Laws

Chapter 40A, Section 3, provides exemptions from local zoning for uses and structures including agricultural uses, religious uses, educational purposes, and certain day care centers. Thus, the town cannot prohibit, require a special permit, or unreasonably regulate those uses that are accorded protections under G.L. c. 40A, § 3. We caution the town to apply the proposed by-law, including Section 17.6.4, in a manner consistent with G.L. c. 40A, § 3.

We next call the town's attention to Section 17.6.5, which pertains in pertinent part to criteria for special permits and provides in as follows:

17.6.5.2 The Plan Approval Authority may grant a Special Permit or other approval within the framework of this Section 17 only after holding a public hearing which must be held within sixty-five (65) days after the applicant files for such Special Permit or other approval. . . . The Applicant is responsible for transmitting a copy of the application for a Special Permit or other approval within twenty-four (24) hours of the filing of the application with the Town Clerk and [sic] to the Planning Board.

(Emphasis added)

Section 17.6.5.2 requires an applicant for a special permit or other approval to transmit a copy of the application to the Planning Board within 24 hours of filing the application with the Town Clerk. In approving Section 17.6.5.2, we remind the town of the requirements of G.L. c. 40A, § 9, and c. 40R, § 11. General Laws Chapter 40, Section 9, pertains to special permits and provides in pertinent part as follows:

Each application for a special permit shall be filed by the petitioner with the city or town clerk and a copy of said application, including the date and time of filing certified by the city or town clerk, shall be filed forthwith by the petitioner with the special permit granting authority.

(Emphasis added.)

General Laws Chapter 40R, Section 11, pertains to applications for approval of smart growth projects and provides in pertinent part as follows:

c) An application for approval under this section shall be filed by the applicant with the . . . town clerk and a copy of the application including the date of filing certified by the town clerk shall be filed forthwith with the approving authority.

General Laws Chapter 40A, Section 9, requires that an applicant file "forthwith" copy of the application with the special permit granting authority and c. 40R, § 11, requires that an applicant file "forthwith" a copy of the application for project approval with the approval authority. We are unable to find any cases defining "forthwith." According to Mark Bobrowski, there is no case law construing this requirement; however, the Appeals Court has said in the context of the Subdivision Control Law,

G.L. c. 41, §81K through § 81GG, that a similar fining was to be accomplished “simultaneously or promptly after the first submission.” Mark Bobrowski, Handbook of Massachusetts Land Use and Planning Law, § 10.03 [G] n. 35 (2003) citing Korkuch v. Planning Bd. of Eastham, 26 Mass. App. Ct. 307, 309 (1998). The town may wish to discuss this issue in more detail with town counsel.

We next call the town’s attention to Section 17.10, which pertains to parking requirements. Section 17.10 provides specific parking requirements for day care centers and other places of assembly. In approving this portion of Section 17.10, we remind the town of the protections accorded to such uses under G.L. c. 40A, § 3. General Laws Chapter 40A, Section 3, provides in pertinent part:

No zoning . . . by-law shall prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements

(Emphasis added.)

Section 3 provides exemptions from local zoning for the use of land or structures for certain religious and educational uses, but authorizes the reasonable regulation of such uses in eight areas. Such uses may be subject to reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. We caution the town that, as applied, the parking requirements in Section 17.10 must be reassessed for reasonableness before they are applied to any specific use that enjoys the protections accorded under G.L. c. 40A, § 3.

We also call the town’s attention to Section 17.11, which pertains to general design standards. Section 17.11.12 pertains to signage and provides in pertinent part as follows:

The residential component shall be limited to three types of sign: name of site, orientation and direction, and to identify common building spaces.

In approving Section 17.11.12, we remind the town that some signs, including political signs, enjoy protection under the First Amendment of the U.S. Constitution and Article 16 of the Declaration of Rights of the Constitution of the Commonwealth. Section 17.11.12 cannot be construed and applied to prohibit signs that enjoy constitutional protections. We presume that the town will honor those protections even where not expressly set forth within the by-law itself.

We next call the town’s attention to Table 1, “Summary of Use Regulations,” which provides in

pertinent part as follows:

Permitted Use	Underlying Industrial 2 Zone	Residential Mixed-use 40R Subdistrict	Mixed-use 40R Subdistrict	Business Opportunity 40R Subdistrict
Non-profit School	Y	Y	SP	SP
Nursing & Convalescent Home*	N	N	Y	N
Veterinary Hospital & Kennel	N	N	N	N

* = See detailed District Use Regulations for uses allowed in the Industrial 2 (I-2) Zoning District as defined in Section 4 of the Zoning Bylaw.

In the Table, “Y” stands for an allowed use; “SP” stands for a use allowed by special permit; and “N” stands for a prohibited use.

In the Table, non-profit schools are allowed by special permit in the Mixed-use 40R Subdistrict and the Business Opportunity 40R Subdistrict. As stated in more detail above, Section 3 provides exemptions from local zoning for the use of land or structures for certain religious and educational uses, but authorizes the reasonable regulation of such uses in eight areas. Such uses may be subject to reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. Thus, if an educational use enjoys protections under G.L. c. 40A, § 3, it would be inconsistent to require a special permit for such use. Therefore, the town must apply Sections 17.6.2.3 and 17.6.3.3 in a manner consistent with G.L. c. 40A, § 3.

In the Table, nursing and convalescent are prohibited in the town’s underlying Industrial 2 Zone, the Residential Mixed-use 40R Subdistrict, and the Business Opportunity 40 Subdistrict. As stated in more detail above, G.L. c. 40A, § 3, prohibits discrimination against disabled persons. We caution the town that it would be inconsistent with G.L. c. 40A, § 3, for the town to apply or enforce its by-laws in a way that treats buildings and uses for the disabled with any less deference given to other similar types of buildings and uses projects. Such difference in treatment would violate the provisions of G.L. c. 40A, § 3.

Lastly, the Table prohibits kennels in underlying Industrial 2 Zone, Residential Mixed-use 40R Subdistrict, Mixed-use 40R Subdistrict, and Business Opportunity 40R Subdistrict. In approving this text, we remind the town of the protections accorded to agriculture under G.L. c. 40A, § 3. Section 3 provides in pertinent part as follows:

No zoning . . . by-law shall . . . prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of every year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or bylaw shall exempt land or structures from flood plain or wetlands regulations established pursuant to general law. For the purposes of this section, the term ""agriculture"" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

General Laws Chapter 40A, Section 3, states that all agricultural uses must be allowed as of right on land zoned for agriculture and on land that is greater than five acres in size; therefore, a municipality cannot restrict agricultural uses in those areas. A municipality is allowed to restrict agricultural uses on land less than five acres that is not zoned for agriculture. The town cannot prohibit, unreasonable regulate, or require a special permit for agricultural activities on land less than five acres zoned for agriculture.

General Laws Chapter 128, Section 1A, defines agricultures and provides in pertinent part as follows:

“Farming” or “agriculture” shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing

animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

We remind the town that dog kennels may be considered an agricultural use and thus enjoy the protections accorded under G.L. c. 40A, § 3. See Sturbridge v. McDowell, 35 Mass. App. Ct. 924, 926 (1993). We caution the town that it cannot take away any rights accorded to an agricultural entity that enjoys the protections accorded under state law. Thus, we caution the town to apply the provision of the Table that prohibits kennels in a manner consistent with the protections given to agriculture under G.L. c. 40A, § 3.

Caution: Since the amendments voted under the foregoing Article were adopted under the provisions of G.L. c. 40R, any future amendment thereof may only be adopted in accordance with the requirements of that statute.

Article 28 - The amendments adopted under Article 28 amend the town's zoning map to include the boundaries of the new "Osgood Smart Growth Overlay District." As stated in more detail above in Article 27, we point out that the town must still comply with the provisions of G.L. c. 40R, § 4 (b), by obtaining final approval from the DHCD of "Osgood Growth Overlay District." Our approval of the amendments adopted under Article 28 is conditioned upon approval by DHCD. Thus, the amendments adopted under Article 28 do not take effect unless and until it both receives such approval and the town clerk posts and publishes the by-law provisions in accordance with G.L. c. 40, § 32. We also caution the town that it may not be eligible for financial and other incentives until it receives final approval from DHCD. We suggest that the town discuss this issue in more detail with town counsel.

Caution: Since the amendments voted under this Article were adopted under the provisions of G.L. c. 40R, any future amendment thereof may only be adopted in accordance with the requirements of that statute.

Article 38 - The amendments adopted under Article 38 add to the town's general by-laws a new Chapter 82, "Demolition Delay." Section 82-3 of the proposed by-law pertains to the procedures for obtaining a demolition permit and provides in pertinent part as follows:

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site.

In approving the above-quoted text in Section 82-3, we remind the town that an applicant has a

clear entitlement to a demolition permit once the applicant has a “plan” that satisfies all permit requirements and applicable laws. Illustratively, if an applicant intends to leave the property as mere open space, for which no local permits are required, the applicant would be entitled to the demolition permit. The above-quoted text in Section 82-3 cannot be construed as limiting projects or the development of the land after the applicant once satisfies the provisions of Section 82-3. The conditions in Section 82-3 do not carry forward to limit what an applicant can do after the applicant submits a “plan” and get a demolition permit. Otherwise stated, a plan filed as required by this section does not have the effect of limiting the future uses of the property that are otherwise lawful nor does it compel the owner to pursue the uses reflected in the plan filed. It is based on this interpretation of Section 82-3 that we approve its text. We suggest that the town discuss the application of this section with town counsel.

We next call the town’s attention to Section 82-4, which pertains to the administration of the Demolition Delay by-law and includes a paragraph pertaining to emergency demolitions. In approving Section 82-4, we remind the town of the requirements of G.L. c. 143, §§ 6-10. General Laws Chapter 143, Sections 6 through 10, pertain to the demolition of dangerous or abandoned buildings. We remind the town to apply Section 82-4 in a manner consistent with state law, including G.L. c. 143, §§ 6-10.

Lastly, we call the town’s attention to Section 83-5, which pertains to the enforcement of the proposed by-law and provides in pertinent part as follows:

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

In approving this text in similar by-laws submitted from other towns, we point out that the rational relationship between the penalty of withholding building permits for adjoining parcels of land for demolishing a structure without a demolition permit is based on the assumption that there is a common development scheme for the subject parcel and adjoining land under common ownership. However, Section 83-5 does not foreclose rebuttal of such presumption. Denial of a building permit on adjoining parcels where the development is not tied to a common development scheme with adjoining parcels would be no more defensible than if the building permit denial was for a parcel of land several miles away. We suggest that the town apply Section 83-5 in a manner consistent with state law.

Article 48 - The amendments adopted under Article 48 delete from the town’s general by-law Chapter 69, Article I, “Fire Detection and Alarm System,” and replace it with new text. The new text governs how one must interface fire alarm systems and equipment with the town’s Fire Department’s alarm receiving system. The new Article I provides in pertinent part as follows:

§ 69-2 Alarm Installation and Permit Requirements

A. As of the effective date of this by-law, no alarm system or equipment designed to summon the Fire Department shall be installed without a permit signed by the Fire Chief or his designee. The issuance of permits shall be in compliance with Massachusetts General Law Chapter 148 Section 10 A.

*

*

*

C. Actual connection to the Fire Department's alarm receiving system will be made only by an installer approved by the Fire Chief for this service through the issuance of a permit as per Massachusetts General Law Chapter 148 Section 10A.

D. As of July 1, 2007 connection to the Fire Department's alarm receiving system will be performed only through approved radio master fire alarm boxes.

E. As of July 1, 2007 all buildings and structures connected to the Fire Department's alarm receiving system will be advised that as of July 1, 2012 master fire alarm boxes connected through hard wired municipal circuit system must be replaced with a radio master box compatible with the Fire Department's alarm receiving equipment. The master boxes on the buildings remain the property of the property owner but must be removed from their location to avoid perceptions that they are connected to the Fire Department. These wireless devices shall be installed and maintained in accordance with the appropriate sections of the then current editions of the following NFPA Standards: NFPA 72 National Fire Alarm Code- NFPA 1221 Standard for the Installation, Maintenance and Use of Emergency Services Communication Systems- NFPA 70 National Electrical Code and all reference documents contained within these codes and the related rules and regulations of the North Andover Fire Department.

(Emphasis added.)

Sections 69-2 (A) and (C) provide that alarm system permits and connection installations shall be issued in compliance with G.L. c. 148, § 10A. In approving these sections, we remind the town that the fees imposed for those permits must in accordance with G.L. c. 148, § 10A. Section 10A allows limited discretion for town to set permit fees and sets the maximum amount that may be imposed for such permits. For example, Section 10A allows for a single fee for joint smoke detector and carbon monoxide alarm inspections and limits the fee for either a carbon monoxide alarm inspection or a smoke detector inspection, conducted separately, to \$50 for a single-family dwelling or a single dwelling unit; \$100 for a 2-family dwelling; \$150 for any building or structure with 6 or fewer residential units; and \$500 for any building or structure with more than 6 units. Therefore any fee imposed for permits issued in under G.L. c. 148, § 10A, cannot be greater than those allowed under Section 10A.

We next call the town's attention to Sections 69-2 (D) and (E). Section 69-2 (D) provides that as of July 1, 2007, all connections to the Fire Department alarm receiving system shall be through an approved radio master fire alarm box. Section 69-2 (E) provides that as of July 1, 2007, owners of

building and structures connected to the town's Fire Department alarm receiving system, will be advised that their system must be replaced with a radio master box compatible with the Fire Department's alarm receiving equipment. In approving these Sections, we point out that the proposed by-law adopted under Article 48 has not and will not take effect until the requirements of G.L. c 40, § 32, have been satisfied. We suggest that the town discuss with town counsel, whether it can impose the obligations and duties required under Sections 69-2 (D) and (E), as of July 1, 2007, a date well before the by-law takes effect.

We next call the town's attention to Section 69-5, "Alarm System Regulations and Maintenance," and provides in pertinent part as follows:

B. Written instructions for re-setting the alarm system shall be clearly visible on, or adjacent to, the system control panel. Once activated, the system shall not be reset prior to the arrival of the Fire Department. Any attempt to reset a system connected directly to the Fire Department shall be considered a violation of Massachusetts General Law Chapter 268 Section 32 (tampering with a fire alarm signal).

(Emphasis added.)

Section 69-5 (B) provides that the resetting of an alarm system connected directly to the Fire Department after the system has been activated shall be considered a violation of G.L. c. 268, § 32. In approving the above underlined text in Section 69-5 (B), we remind the town that it cannot by by-law establish what constitutes a violation of G.L. c. 268, § 32. Whether the action contemplated in Section 69-5 (B) is a violation of G.L. c. 268, § 32, is governed by state law. Thus, we generously construe the above underlined text in Section 69-5 (B), as a recitation of state and common law pertaining to what constitutes a violation of G.L. c. 268, § 32.

We next call the town's attention to Section 69-7, "False Alarm Assessment." Section 69-7 provides a schedule of penalties for false alarms. In approving Section 69-7, we remind the town that G.L. c. 269, § 13, has criminalized false alarms for fire. Section 13 provides as follows:

Whoever, without reasonable cause, by outcry or the ringing of bells, or otherwise, makes or circulates or causes to be made or circulated a false alarm of fire shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in a jail or house of correction for not more than one year.

General Laws Chapter 269, Section 13, provides for a fine or imprisonment for false alarms. We suggest that, before the town enforces its by-law provisions, the town discuss with the Essex County District Attorney's Office and town counsel the application of the by-law and the principles of double jeopardy established under federal and state law. Great care must be given in implementing and enforcing this by-law because enforcement of a by-law violation, a lesser offense, might foreclose prosecution of a G.L. c. 269, § 13, violation, a more serious offense, brought by the District Attorney

against a person deemed to be an imminent threat to society.

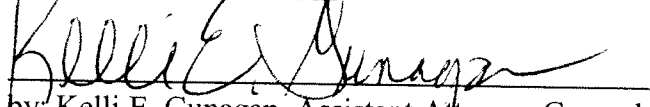
Note: Under G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of this section. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

If the Attorney General has disapproved and deleted one or more portions of any by-law or by-law amendment submitted for approval, only those portions approved are to be posted and published pursuant to G.L. c. 40, § 32. We ask that you forward to us a copy of the final text of the by-law or by-law amendments reflecting any such deletion. It will be sufficient to send us a copy of the text posted and published by the Town Clerk pursuant to this statute.

Nothing in the Attorney General's approval authorizes an exemption from any applicable state law or regulation governing the subject of the by-law submitted for approval.

Very truly yours,

MARTHA COAKLEY
ATTORNEY GENERAL

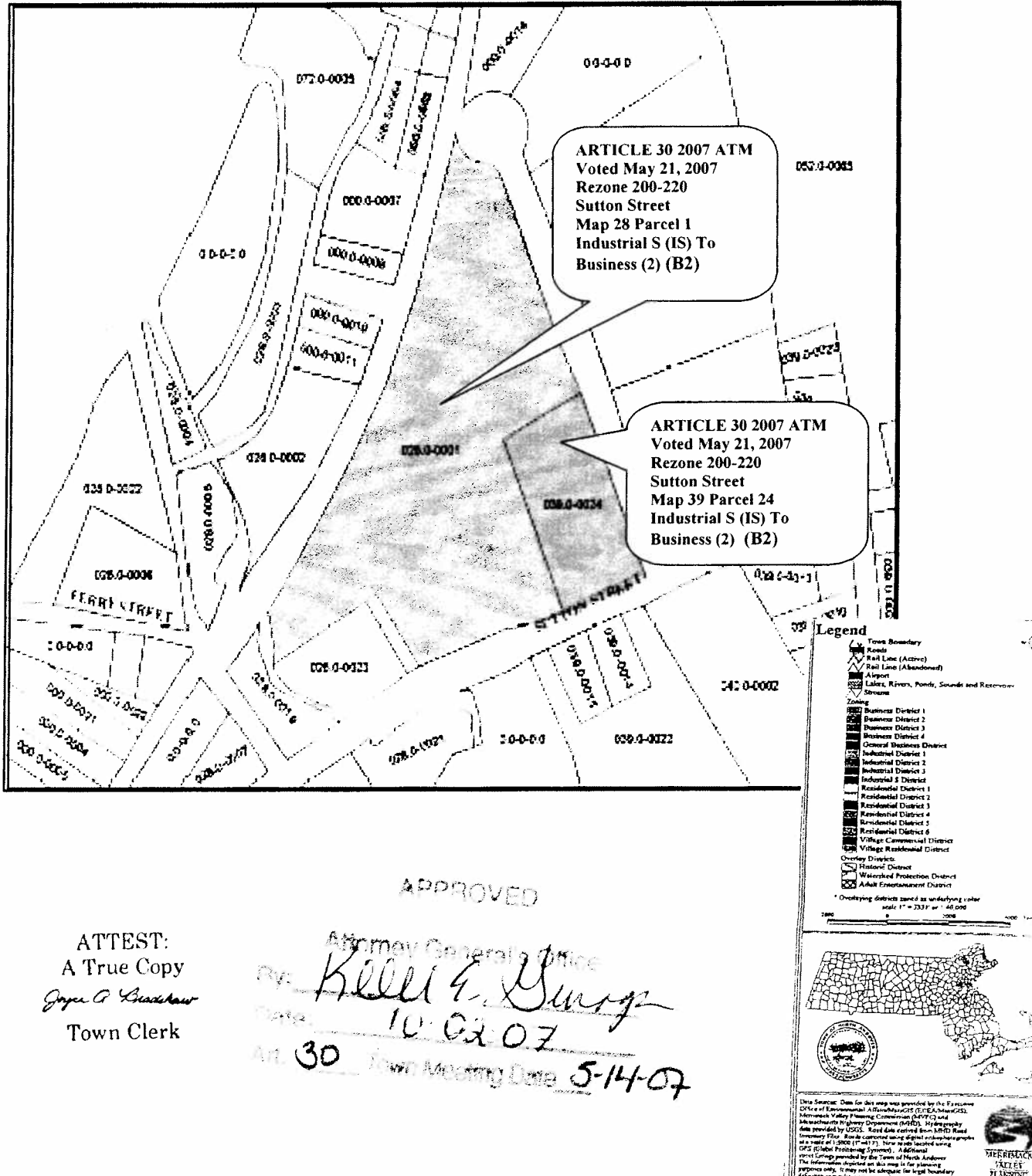

by: Kelli E. Gunagan, Assistant Attorney General
By-law Coordinator, Municipal Law Unit
1350 Main Street, 4th Floor
Springfield, MA 01103-1629
(413) 784-1240, x 117

enc.

cc: Town Counsel

**TOWN OF NORTH ANDOVER ANNUAL TOWN MEETING
ARTICLE 30 -VOTED MAY 21, 2007**

**REZONE 200-220 SUTTON STREET MAP 39 LOT 24 AND MAP 28
LOT 1 – INDUSTRIAL S (IS) TO BUSINESS 2 (B2)**



TOWN OF NORTH ANDOVER
2007 ANNUAL TOWN MEETING
ARTICLE 28 - VOTED JUNE 4, 2007

ZONING LEGEND

--- DISTRICT BOUNDARY (TYP)

■ RESIDENTIAL ZONE (51.65 AC.)

■ MIXED USE ZONE (10.15 AC.)

APPROVED OPPORTUNITY ZONE (23.44 AC.)

Attorney General's Office

By: Kelli E. Grogan

Date: 10-02-07

Art. 28 Town Meeting 51407

MERRIMACK RIVER

Assessor's Map
 34 PARCELS 15+17

PARCEL ZONED
 I-2 (INDUSTRIAL
 2)

ATTEST:
 A True Copy

Jane A. Blackshaw
 Town Clerk

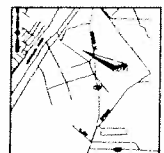
1600 Osgood Street
 Smart Growth Overlay District
 Zoning Map

Prepared by the North Andover Department of Community Development

Scale 1" = 100' Date: March, 2007 (Revised 6/5/07)



Huntress Associates, Inc.
 1000 Old Andover Road
 Andover, MA 01810
 (978) 462-1111



Metes & Bounds Description
Residential Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 1 of 2

Beginning at a point along the westerly sideline of Osgood Street (Route 125) at the land now or formerly of J. Tropeano, Inc., said point being the northeasterly corner of the within described premises;

Thence along said westerly sideline of Osgood Street the following four (4) courses:

Along a curve to the right having a central angle of $12^{\circ}20'40''$, a radius of one thousand one hundred and seventy (1170.00) feet and an arc length of two hundred fifty-two and eight hundredths (252.08) feet to a point;

Thence $S22^{\circ}55'07''W$ four hundred twenty-six and six hundredths (426.06) feet to a point;

Thence along a curve to the left having a central angle of $26^{\circ}06'25''$, an radius of one thousand two hundred and thirty-two (1232.00) feet and an arc length of five hundred sixty-one and thirty-six hundredths (561.36) feet to a point;

Thence $S03^{\circ}11'18''E$ seventy and thirty-six hundredths (70.36) feet to a point;

Thence through the land now or formerly of 1600 Osgood Street LLC $S76^{\circ}14'53''W$ one thousand three hundred ninety and forty-six hundredths (1390.46) feet to a point;

Thence continuing through the land of said 1600 Osgood Street LLC $N13^{\circ}45'07''W$ one hundred forty-seven and ninety-five hundredths (147.95) feet to a point at the land now or formerly of Massachusetts Bay Transportation Authority;

Thence by the land of said Massachusetts Bay Transportation Authority the following five (5) courses:

$N38^{\circ}18'43''E$ one thousand sixty-five and forty-six hundredths (1065.46) feet to a point;

Thence $S58^{\circ}01'59''E$ six and fifty hundredths (6.50) feet to a point;

Thence $N38^{\circ}49'09''E$ three hundred two and eighty-seven hundredths (302.87) feet to a point;

Thence $N30^{\circ}47'22''E$ two hundred eighty-six and ninety-eight hundredths (286.98) feet to a point;

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

Metes & Bounds Description
Residential Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 2 of 2

Thence N20°20'59"E three hundred fifty-eight and eighty-eight hundredths (358.88) feet to a point at the land of said J. Tropeano, Inc.;

Thence by the land of said J. Tropeano, Inc. S70°06'04"E six hundred twenty-five and thirty-four hundredths (625.34) feet to the point of beginning.

Said tract or parcel of land contains 1,381,104 square feet or 31.706 acres, more or less.

Metes & Bounds Description
Business Opportunity Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 1 of 3

Beginning at a point along the westerly sideline of Osgood Street (Route 125) and along the land now or formerly of 1600 Osgood Street LLC, said point being the northeasterly corner of the within described premises;

Thence along said westerly sideline of Osgood Street the following eight (8) courses:

Along a curve to the left having a central angle of $08^{\circ}22'14''$, a radius of three thousand one hundred twelve and fifty-seven hundredths (3112.57) feet and an arc length of four hundred fifty-four and seventy-two hundredths (454.72) feet to a point;

Thence $S13^{\circ}25'32''E$ six hundred seventy-four and twenty-two hundredths (674.22) feet to a point;

Thence $S13^{\circ}37'13''E$ two hundred sixteen and twenty-one hundredths (216.21) feet to a point;

Thence along a curve to the right have a central angle of $16^{\circ}26'03''$, a radius of one thousand five hundred (1500.00) feet and an arc length of three hundred eighty-eight and twelve hundredths (388.12) feet to a point;

Thence $S01^{\circ}12'17''W$ four hundred seventy-eight and ninety-nine hundredths (478.99) feet to a point;

Thence $N88^{\circ}47'43''W$ thirty-six (36.00) feet to a point;

Thence $S07^{\circ}24'13''W$ two hundred fifty-five and fifty-two hundredths (255.52) feet to a point;

Thence along a curve to the right having a central angle of $65^{\circ}19'30''$, a radius of one hundred (100.00) feet and an arc length of one hundred fourteen and one hundredth (114.01) feet to a point on the northerly sideline of Holt Road;

Thence along the northerly sideline of said Holt Road the following five (5) courses:

$S72^{\circ}43'43''W$ three hundred thirty-eight and seventy-one hundredths (338.71) feet to a point;

Thence $S72^{\circ}21'52''W$ three hundred fourteen and eighty-seven hundredths (314.87) feet to a point;

ATTEST:
A True Copy
Joyce O. Bradshaw
Town Clerk

Metes & Bounds Description
Business Opportunity Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 2 of 3

Thence S70°31'07"W two hundred eleven and fifty-nine hundredths (211.59) feet to a point;

Thence S62°27'21"W ninety-five and seventeen hundredths (95.17) feet to a point;

Thence S60°11'36"W two hundred forty-nine (249.00) feet to a point at the land now or formerly of Commonwealth of Massachusetts Department of Environmental Protection;

Thence partly by said land of Commonwealth of Massachusetts Department of Environmental Protection, partly by other land now or formerly of Commonwealth of Environmental Protection and partly by land now or formerly of North Andover 2004, LLC the following six (6) courses:

N17°35'23"W three hundred seventy-eight and ninety-nine hundredths (378.99) feet to a point;

Thence N62°12'23"W seven hundred fifty-eight and ninety-eight (758.98) feet to a point;

Thence N43°50'26"W one hundred seventy and five hundredths (170.05) feet to a point;

Thence N01°29'29"E two hundred seventy-three and seventy-nine hundredths (273.79) feet to a point;

Thence N10°39'45"W sixty-nine and ninety-eight hundredths (69.98) feet to a point;

Thence N23°51'01"W one thousand three and eighty hundredths (1003.80) feet to a point at the land now or formerly of Massachusetts Bay Transportation Authority;

Thence by said land of Massachusetts Bay transportation Authority the following five (5) courses:

N38°18'43"E seven hundred forty and ninety hundredths (740.90) feet to a point;

Thence N43°10'14"E one hundred and thirty-six hundredths (100.36) feet to a point;

Thence N37°09'59"E one hundred and two hundredths (100.02) feet to a point;

Metes & Bounds Description
Business Opportunity Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 3 of 3

Thence N34°35'35"E one hundred and twenty-one hundredths (100.21) feet to a point;

Thence N38°18'43"E three hundred thirty-seven and sixteen hundredths (337.16) feet to a point;

Thence through said land of 1600 Osgood Street LLC the following five (5) courses:

S13°45'07"E one hundred forty-seven and ninety-five hundredths (147.95) feet to a point;

Thence N76°14'53"E three hundred seventy and ten hundredths (370.10) feet to a point;

Thence S13°45'07"E one hundred seventy-two and fifteen hundredths (172.15) feet to a point;

Thence S76°14'53"W one hundred sixty-six and eighty-seven hundredths (166.87) feet to a point;

Thence S13°45'07"E two hundred forty and seventy-four hundredths (240.74) feet to a point;

Thence N76°14'53"E one thousand one hundred eleven and ninety hundredths (1111.90) feet to the point of beginning.

Said tract or parcel of land contains 5,493,039 square feet or 126.103 acres more or less.

Metes & Bounds Description
Mixed Use Zone – 1600 Osgood Street
North Andover, Massachusetts
April 6, 2007
Page 1 of 1

Beginning at a point along the westerly sideline of Osgood Street (Route 125) and along the land now or formerly of 1600 Osgood Street LLC, said point being the northeasterly corner of the within described premises;

Thence along said westerly sideline of Osgood Street S03°11'18"E three hundred eighteen and thirty hundredths (318.30) feet to a point;

Thence continuing along said westerly sideline of Osgood Street along a curve to the left having a central angle of 01°52'01", a radius of three thousand one hundred twelve and fifty-seven hundredths (3112.57) feet and an arc length of one hundred one and forty-two hundredths (101.42) feet to a point;

Thence through said land of 1600 Osgood Street LLC the following five (5) courses:

S76°14'53"W one thousand one hundred eleven and ninety hundredths (1111.90) feet to a point;

Thence N13°45'07"W two hundred forty and seventy-four hundredths (240.74) feet to a point;

Thence N76°14'53"E one hundred one hundred sixty-six and eighty-seven hundredths (166.87) feet to a point;

Thence N13°45'07"W one hundred seventy-two and fifteen hundredths (172.15) feet to a point;

Thence N76°14'53"E one thousand twenty and thirty-two hundredths (1020.32) feet to the point of beginning.

Said tract or parcel of land contains 445,626 square feet or 10.230 acres more or less.

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 30 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 30. Amend Zoning Map – 200 and 220 Sutton Street, Assessors Map 39, Lot 24 and Assessors Map 28, Lot 1, from Industrial S (I-S) to Business 2 (B-2). UNANIMOUSLY VOTED to amend the Zoning Map of the Town of North Andover to rezone two parcels of land, known and numbered at 200 Sutton Street and 220 Sutton Street shown on the attached plan entitled “Rezoning Plan Of Land, Map 28, Parcel 1, and Map 39, Parcel 24, in North Andover, Mass.,” dated February 26, 2007, prepared For LBM Realty Trust & Charles T. Matses, by Andover Consultants, Inc. on file with Town Clerk, located on the north side of Sutton Street at the corner of Sutton Street and Charles Street, from Industrial-S (I-S) to Business 2 (B-2). Said parcels are further described below:

The first parcel known as 200 Sutton Street consists of 5.46 acres of land, shown as Lot 1 on Map 28 of the Town of North Andover Assessors Map, and is more particularly described as follows:

Beginning at a point on the northerly line of Sutton Street, 166.00’ westerly of a Stone Bound at the corner of Charles Street
Thence running along said Sutton Street S 84-45-55 W a distance of 145.62’
Thence running still along said Sutton Street N 89-29-11 W a distance of 146.97’ to a P.K. Nail at land now or formerly of In-Laws Realty Trust.
Thence turning and running by said land of In-Laws Realty Trust N 11-31-05 W a distance of 150.03’ to a P.K. Nail
Thence turning and running S 78-28-55 W a distance of 218.17’ to Cochichewick Brook
Thence running by said brook 75’ +/- to land now or formerly of Boston & Maine Railroad
Thence running N 51-14-47 E a distance of 130.87’
Thence running N 44-58-47 E a distance of 102.00’

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

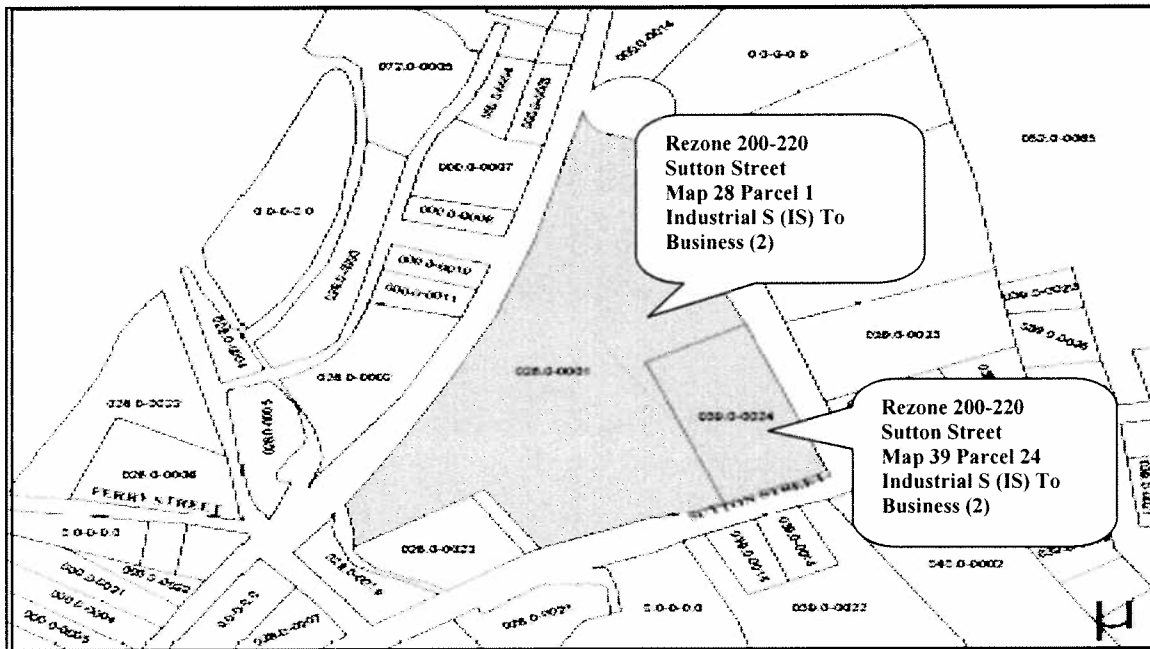
four
166.00'
Thence running N 38-36-19 E a distance of 61.32'
Thence on a curve with a radius of 2,414.40' a distance of 533.45' the last
courses along said land of Boston & Maine Railroad,
Thence running S 55-26-12 E a distance of 18.98' to Charles Street
Thence along said Charles Street on a curve with a radius of 65.00'
a distance of 71.50'
Thence along said Charles Street on a curve with a radius of 29.95'
a distance of 25.21'
Thence along said Charles Street running S 05-16-20 E a distance
of 370.25' to Parcel 24 as shown of said plan
Thence running by said Parcel 24 S 84-45-55 W a distance of
Thence running S 05-16-20 E a distance of 300.00' to the point of
beginning.
Containing 5.46 acres +/- according to said plan.

**The second parcel numbered as 220 Sutton Street is shown as
Lot 24 on Assessors Map 39 of the Town of North Andover
Assessors Map, and is more particularly described as follows:**

Sutton Street
Street
Beginning at a stone bound at the corner of Charles Street &
Thence running along said Sutton Street S 84-45-55 W a distance
of 166.00' to Parcel 1 as shown on said plan
Thence running by Parcel 1 N 05-16-20 W a distance of 300.00'
Thence running N 84-45-55 E a distance of 166.00' to Charles
Thence running along Charles Street S 05-16-20 E a distance of
300.00' to the point of beginning
Containing 49,800 sq. ft. +/- according to said plan.

For deed reference to Lot 1 (200 Sutton Street), see Deed to LBM
Realty Trust recorded with the Essex North District Registry of
Deeds in Book 3342, Page 328. For deed reference to Lot 24, see
Deed to Charles T. Matses recorded with said Deeds in Book 958,
Page 22,

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



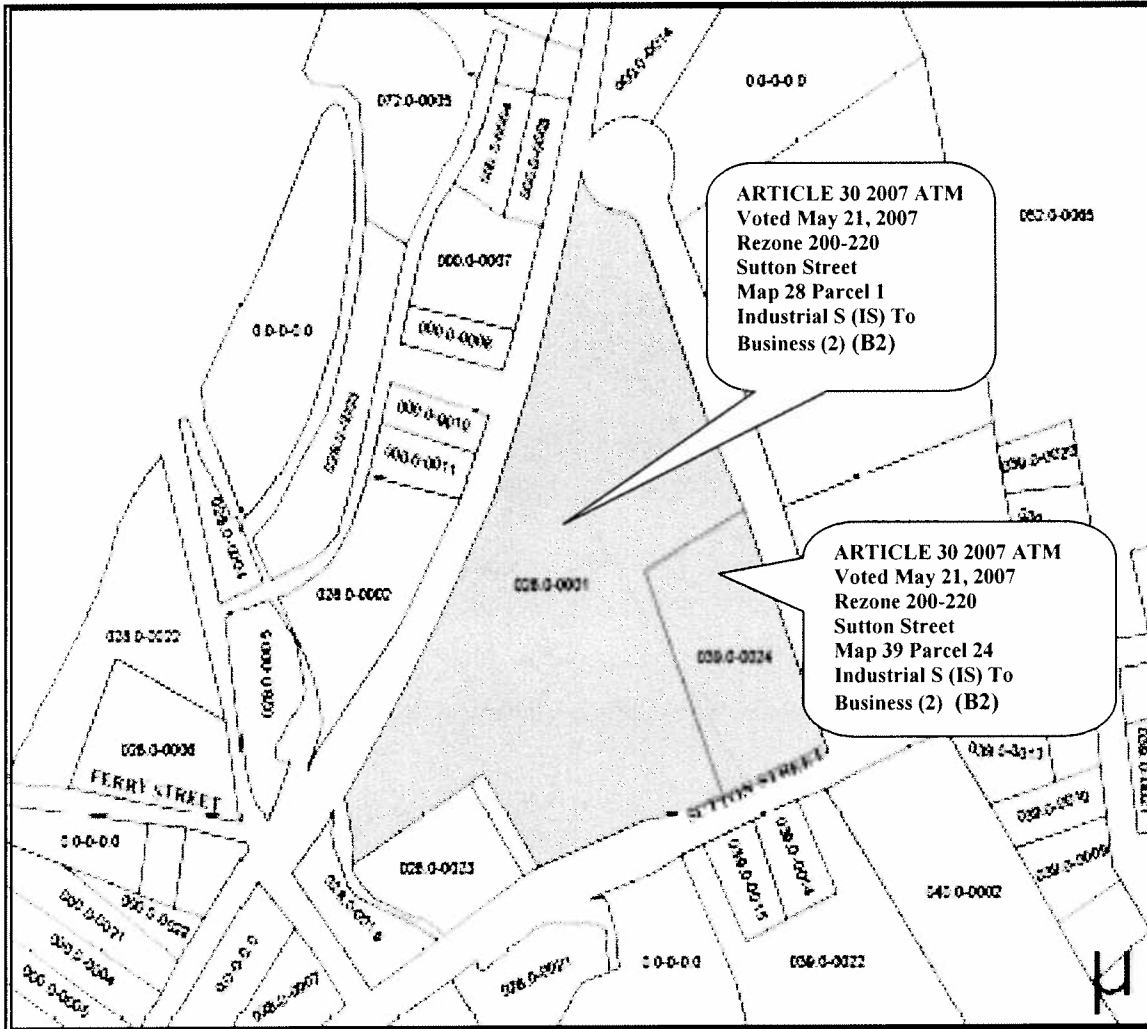
Petition of John T. Smolak and others

VOTED MAY 21, 2007

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

**TOWN OF NORTH ANDOVER ANNUAL TOWN MEETING
ARTICLE 30 -VOTED MAY 21, 2007**

**REZONE 200-220 SUTTON STREET MAP 39 LOT 24 AND MAP 28
LOT 1 – INDUSTRIAL S (IS) TO BUSINESS 2 (B2)**



ATTEST:
A True Copy
Joyce A. Brutscheau
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 36 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 36. Amend Zoning Bylaw – Add New Section – Section 7.4 (5) – Dimensional Requirements – Building Heights. UNANIMOUSLY VOTED to amend the North Andover Zoning Bylaw by adding a new section, Section 7.4 (5).

Section 7.4 (5) to read as follows:

SECTION 7 DIMENSIONAL REQUIREMENTS

7.4 Building Heights

5. Nor of a manufacturing building a height of eighty-five (85) feet from the ground, or pharmaceutical manufacturing silo having a height of one hundred-fifteen (115) feet from the ground.

VOTED MAY 21, 2007

ATTEST:
A True Copy

Joyce A. Bradshaw
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 37 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 37. Amend North Andover Zoning Bylaw – Section 8.5.6(F) Usable Open Space. VOTED BY TWO-THIRD VOTE DECLARED BY THE MODERATOR to amend the Town of North Andover Zoning Bylaw, Section 8.5.6(F) in order to further clarify the definition of Usable Open Space and the method for calculation of usable open space within a Planned Residential Development.

Section 8.5.6(F) Usable Open Space now reads:

- F. Usable Open Space: Usable Open Space shall be defined as the part or parts of land within the PRD, which are reserved for permanent open space. This space shall exclude parking areas, but include required setbacks and walkways. The usable open space shall be open and unobstructed to the sky; however, trees, planting, arbors, flagpoles, sculptures, fountains, swimming pools, atriums, outdoor recreational facilities and similar objects shall not be considered obstructions.
1. For subdivision PRD's the minimum usable open space requirements shall be 35% of the total parcel area; and no more than 25% of the total amount of required usable open space shall be wetland.
 2. For site planned PRD's, the minimum usable open space requirements shall be 50% of the total parcel area; and no more than 25% of the total required usable open space shall be wetland.

All resource area shall be determined by the requirements of M.G.L. Chapter 131, Section 40, and the Town's Wetland Bylaws under this subsection.

For all PRD's the Usable Open Space shall be owned in common by and readily accessible to the owners of all the units in the PRD by any of the following groups:

1. A non-profit organization or trust whose members are all the owners and occupants of the units,
2. Private organization including but not limited to the Trustees of Reservations or Essex County Greenbelt Association whose primary function is preservation of open space,
3. The Town of North Andover,

ATTEST:

A True Copy

Joyce A. Bradshaw

Town Clerk

4. Any group as indicated by the Planning Board which exists or is created for the purpose of preserving open space for the owners of the units located in a PRD Project.

Further, a perpetual restriction of the type described in M.G.L. Chapter 184, Section 31, (including future amendments thereto and corresponding provisions to future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the Usable Open Space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, or recreation.

Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the Usable Open Space as the Planning Board may deem appropriate.

Section 8.5.6(F) Usable Open Space as amended by replacing the current language to read as follows:

F. Usable Open Space:

Usable Open Space shall be defined as the part or parts of land within the PRD, which are reserved for permanent open space or passive recreation use. The usable open space shall be open and unobstructed to the sky. Trees, planting, arbors, flagpoles, sculptures, fountains, outdoor open-air, passive/active recreational facilities and similar objects shall not be considered "obstructions".

1. Usable Open Space Ratio:

- a. For subdivision PRD's the minimum usable open space requirements shall be 35% of the total parcel area; and no more than 25% of the total amount of required usable open space shall be wetland as defined pursuant to Wetlands Protection Act, M.G.L.c.131, s.40 and the Town of North Andover Wetland Protection Bylaw, Chapter 178 of the Code of North Andover.
- b. For site planned PRD's, the minimum usable open space requirements shall be 50% of the total parcel area; and no more than 25% of the total required usable open space shall be wetland as defined pursuant to Wetlands Protection Act, M.G.L.c.131, s.40 and the Town of North Andover Wetland Protection Bylaw, Chapter 178 of the Code of North Andover.

2. Usable Open Space Calculation:

- a. Parking areas and roadways may not be included in the calculation of open space area, but the calculation may include required setbacks, waterways, and walkways. If the Planning Board requires additional parking to facilitate use of the open space, then that added parking area may be included in the calculation of the open space.
- b. For the purpose of creating townhouses, condominiums, multi-family, or similar housing within a Site Plan Special Permit PRD and Subdivision PRD, that area of land extending a minimum of twenty-five feet (25') from the foundation of the residential structure, eave, door, steps or stairway, patio area, deck, balcony, chimney or any other structure or improvement shall be excluded from the calculation of useable open space. If a residential structure or dwelling is more than one story tall, the minimum twenty-five foot (25') area must be measured from the furthest point from the structure or improvement.

ATTEST:

A True Copy

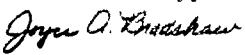
Joyce A. Lusk

Town Clerk

- c. The usable open space shall be contiguous. Usable open space may still be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of this bylaw.
 - d. Wastewater/Stormwater Structures: At the discretion of the Planning Board, subsurface wastewater and stormwater management systems serving the PRD may be located within the open space, with the approval of the Planning Board. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.
 - e. Accessory Structures: The Planning Board may permit up to five percent (5%) of the open space to be paved (pervious "paving" materials are encouraged) or built upon for structures accessory to the dedicated use or uses of such open space (for example, pedestrian walks and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.
 - f. At the sole discretion of the Planning Board, the Planning Board may waive the conditions in Section 8.5.6(F)(2) Useable Open Space Calculations if it finds that the project satisfies the purpose and intent of the Section 8.5 and improves the overall PRD design.
3. Ownership and Accessibility:
- a. For all PRD's the Usable Open Space shall be owned in common by and readily accessible to the owners of all the units in the PRD by any of the following groups:
 - i. A non-profit organization or trust whose members are all the owners and occupants of the units;
 - ii. Private organization including but not limited to the Trustees of Reservations or Essex County Greenbelt Association whose primary function is preservation of open space;
 - iii. The Town of North Andover; and Any group as indicated by the Planning Board, which exists or is created for the purpose of preserving open space for the owners of the units located in a PRD Project.
 - b. The usable open space shall be to greatest extent practicable accessible to the general public (unless restricted) and not for the exclusive use of a homeowner, homeowners' association or non-profit organization. For open space maintained strictly for active agricultural purposes, public access may be limited or completely excluded. This agricultural and access restriction shall be included as a deed restriction running with the land.
4. Restrictions:
- a. A perpetual restriction of the type described in M.G.L. Chapter 184, Section 31, (including future amendments thereto and corresponding provisions to future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the Usable Open Space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, or recreation.
 - b. Such restriction(s) shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the Usable Open Space as the Planning Board may deem appropriate.

Planning Board

VOTED MAY 21, 2007

ATTEST:
A True Copy

Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 38 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 38. Amend General Bylaws-Insert New Chapter – Chapter 82 – Demolition Delay. VOTED to enact the following Chapter 82 of the General Bylaws to delay demolition of historic buildings as printed in the Finance Committee Report and posted in the warrant with the following amendment:

“All instances of 15 (fifteen) months to read 12 (twelve months) and all instances of 75(seventy-five) years to read 100(one hundred) years”

Chapter 82 as amended to read as follows:

CHAPTER 82 - DEMOLITION DELAY

§ 82-1. Intent and Purpose.

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

§ 82-2. Definitions.

APPLICANT-Any person or entity that files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION-An application for the demolition of a building.

BUILDING-Any combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER or INSPECTOR- The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION - The North Andover Historical Commission or its designee.

DEMOLITION-Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED - Any significant building, which the Commission determines, following a public hearing that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the **twelve-month** demolition delay period of this bylaw.

SIGNIFICANT BUILDING - Any building within the town which is in whole or in part **one hundred years** or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

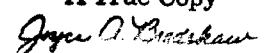
- a. The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- b. The Building has been found eligible for the National Register of Historic Places; or
- c. The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- d. The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

§ 82-3. Procedures.

No demolition permit for a building which is in whole or in part **one hundred years** or more old shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over **one hundred years** old for the purposes of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner an application containing the following information:

- a. The address of the building to be demolished.
- b. The owner's name, address and telephone number.
- c. A description of the building.
- d. The reason for requesting a demolition permit.
- e. A brief description of the proposed reuse, reconstruction or replacement.
- f. A photograph or photograph(s) of the building.

ATTEST:
A True Copy

Town Clerk

The Building Commissioner shall within seven days forward a copy of the application to the Commission. The Commission shall within thirty days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within thirty days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of **twelve months** from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one days of the public hearing, the Building Commissioner may issue the demolition permit.

Upon a determination by the Commission that any building that is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of **twelve months** from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special

ATTEST:

A True Copy

Joyce A. Bhaskar

Town Clerk

permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the **twelve months** if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.

Following the **twelve-month** delay period, the Building Commissioner may issue the demolition permit.

§ 82-4. Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may pro-actively develop a list of significant buildings that will be subject to this bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

An Emergency Demolition shall be allowed, if after an inspection, the Building Commissioner finds that a building subject to this bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

§ 83-5. Enforcement and Remedies.

The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this bylaw that demolished the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than Three Hundred Dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this bylaw is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

ATTEST
A True Copy
Joyce O. Bradshaw
Town Clerk

§ 84-5. Historic District Act.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

§ 85-6. Severability.

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

VOTED MAY 21, 2007

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 39 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 39. Amend Chapter 28 of the General Bylaws – Affordable Housing Trust Fund. UNANIMOUSLY VOTED to amend Chapter 28 of the General By-Laws, the Affordable Housing Trust Fund, as follows, in accordance with the provision of Massachusetts General Laws Chapter 44, Section 55C, as amended by Chapter 109 of the Acts of 2006:

Delete existing Section 28-2, Purpose, and replace with the following as printed in the warrant and as amended by adding in Section 28-2 Purpose – Line 8 by deleting “and creation” after “preservation” and adding “,creation, and use” :

Chapter 28-Section -2 to read:

§28-2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of North Andover for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real and personal property or money, both tangible and intangible, of every sort and description; to use such property, both real and personal, and money, in such manner as the Trustees shall deem appropriate to carry out such purpose, provided, however, that all property held by the Trust and the net earnings thereof shall be used exclusively for the preservation, creation, and use in the Town of North Andover of affordable housing for the purposes for which the Trust was formed.

Amend §28-3, Tenure of Trustees, by adding the following sentence to the end of said section:

Nothing in this section shall prevent a board of selectmen from appointing the town manager as a member or chair of the board, with or without the power to vote.

**ATTEST
A True Copy**

Joyce A. Bradshaw
Town Clerk

Delete existing Paragraph A from Section 28-5, Powers of Trustees, and replace with the following:

A. With the approval of the Board of Selectmen, to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation, or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from General Laws Chapter 44B.

Delete existing Section 28-8, Liability, and replace with the following:

§28-8. Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purpose of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of Massachusetts General Laws Chapter 268A.

Delete existing Section 28-14, Recordings, and replace with the following:

§28-14. Recordings

The Board of Selectmen may authorize the Trustees to execute, deliver and record with the Registry of Deeds any documents required for any conveyance authorized hereunder or to carry out the purposes and powers of the trust.

**CHAPTER 28 – AFFORDABLE HOUSING TRUST FUND AS AMENDED
TO READ:**

CHAPTER 28

HOUSING TRUST FUND

HISTORY: Adopted by the Town of North Andover May 2, 1988 Annual Town Meeting Article 31.
[Chapter 28 Replaced – Article 33 2006 Annual Town Meeting, Approved by Attorney General
][Amendments noted where applicable.]

§ 28-1. Name of the Trust

§ 28-2. Purpose

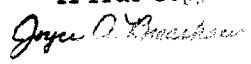
§ 28-3. Tenure of Trustees

§ 28-4. Meetings of the Trust

§ 28-5. Powers of Trustees

§ 28-6. Funds Paid to the Trust

§ 28-7. Acts of Trustees

ATTEST:
A True Copy

Town Clerk

§28-8. Liability

§ 28-9. Taxes

§ 28-10. Custodian of Funds

§ 28-11. Governmental Body

§ 28-12. Board of the Town

§ 28-13. Duration of the Trust

§ 28-14. Recordings

§ 28-15. Titles

§ 28-1. Name of the Trust

The trust shall be called the “Town of North Andover Affordable Housing Trust Fund”.

§ 28-2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of North Andover for the benefit of low and moderate-income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings thereof shall be used exclusively for the **preservation, creation, and use** in the Town of North Andover of affordable housing for the purposes for which this Trust was formed.

§ 28-3. Tenure of Trustees

There shall be a Board of Trustees consisting of not less than five nor more than seven Trustees who shall be appointed by the Board of Selectmen. At least one of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of North Andover shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years, except that two of the initial trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Board of Selectmen. Any Trustee who ceases to be a resident of the Town of North Andover shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such

ATTEST:

A True Copy

Joyce A. Thompson

Town Clerk

succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

§ 28-4. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, Massachusetts General Laws Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

§ 28-5. Powers of Trustees

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of Massachusetts General Laws Chapter 44, Section 55C:

- A. With the approval of the Board of Selectmen, to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from the General Laws Chapter 44B.**
- B. With the approval of the Board of Selectmen, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- C. With the approval of the Board of Selectmen and Town Meeting, to sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust real property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- D. With the approval of the Board of Selectmen, to sell, lease, exchange, transfer, or convey any personal property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust personal property notwithstanding the length of any such lease or contract;
- E. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

ATTEST

A True Copy

Joyce A. Lonsdale

Town Clerk

- F. To employ advisors and agents, such as accountants, appraisers and lawyers as the trustees deem necessary;
- G. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the trustees deem advisable;
- H. To apportion receipts and charges between income and principal as the trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- I. With the approval of the Board of Selectmen, to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- J. With the approval of the Board of Selectmen, to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the trustees may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board, with the approval of the Board of Selectmen, may deem necessary and appropriate;
- K. To carry property for accounting purposes other than acquisition date values;
- L. With the approval the Board of Selectmen and the approval of Town Meeting by a two-thirds majority vote, to incur debt, to borrow money on such terms and conditions and from such sources as the trustees deem advisable, and to mortgage and pledge trust assets as collateral;
- M. With the approval of the Board of Selectmen, to disburse trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in North Andover upon such terms as the Trustees shall deem most appropriate to carry out such purposes;
- N. To make distributions or divisions of principal in kind;
- O. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of G.L. Chapter 44, Section 55C, to

ATTEST

A True Copy

Joyce A. Whitaker

Town Clerk

continue to hold the same for such period of time as the board may deem appropriate;

- P. To manage or improve real property and, with the approval of the Board of Selectmen and Town Meeting, to abandon any property which the trustees determine not to be worth retaining;
- Q. To hold all or part of the trust property uninvested for such purposes and for such time as the trustees may deem appropriate; and
- R. To extend the time for payment of any obligation to the trust.

§ 28-6. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and these funds need not be further appropriated to be expended. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within one year of the date they were appropriated into the trust, remain trust property.

§ 28-7. Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

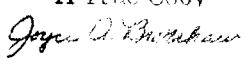
§28-8. Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purpose of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of Massachusetts General Laws Chapter 268A.

§ 28-9. Taxes

The Trust is exempt from Massachusetts General Laws Chapter 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

§ 28-10. Custodian of Funds

ATTEST:
A True Copy

Town Clerk

The Town Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities.

§ 28-11. Governmental Body

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of Massachusetts General Laws Chapter 39.

§ 28-12. Board of the Town

The Trust is a board of the Town for purposes of Massachusetts General Laws Chapter 30B and Section 15A of Massachusetts General Laws Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

§ 28-13. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

§ 28-14. Recordings

The Board of Selectmen may authorize the Trustees to execute, deliver and record with the Registry of Deeds any documents required for any conveyance authorized hereunder or to carry out the purposes and powers of the trust.

§ 28-15. Titles

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such Article.

Board of Selectmen

VOTED MAY 21, 2007

**ATTEST:
A True Copy**

Joyce A. Boudreau

Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 47 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 47. Amend General Bylaws-Chapter 88 Section 8 – Dogs – Nuisances.
VOTED BY CLEAR MAJORITY to amend Chapter 88 DOGS of the General Bylaws by changing Section 88-8 Nuisances, as follows:

Chapter 88, Section 88-8 is to be amended by removing the text shown as stricken, and adding the text shown as underlined.

§ 88-8 Nuisances and Fines

No owner shall fail to exercise proper care and control of his or her dog to prevent said dog from becoming a public nuisance as defined below with the accompanying fine schedule:

Barking frequently or for continued duration or making sounds which create a noise disturbance across a ~~residential~~ real property boundary:

First Offense: \$25.00, Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Molesting people or chasing vehicles:

First Offense: \$25.00, Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

~~Habitually~~ Attacking people, including biting, or ~~other~~ domestic animals:

First Offense: \$100.00, Second Offense: \$200.00, 3rd and subsequent offenses: \$300.00

Trespassing ~~upon~~ school grounds or other public land where dogs are banned, or trespassing upon private property ~~in such manner as to damage property shall be deemed a nuisance:~~

The penalty for violations shall be \$25 for the first offense and \$50 for each additional offense.

First Offense: \$25.00 Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Violation of Section 88-1 Leash Required:

First Offense: \$25.00 Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

ATTEST:

A True Copy

Joyce A. Bradshaw

Town Clerk

Violation of Section 88-3 Restraint Order:

First Offense: \$100.00, Second Offense \$200.00 3rd and subsequent offenses: \$300.00

Violations of this bylaw shall may be handled as a non-criminal offense in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 21 D with the North Andover Police Department including the Community Service Officer being the enforcing officer for violations of this by law. However, nothing in this section shall be construed as limiting the authority of the Board of Selectmen as provided by Massachusetts General Laws, Chapter 140, Section 157.

CHAPTER 88 SECTION 8 AS AMENDED TO READ AS FOLLOWS:

§ 88-8 Nuisances and Fines

No owner shall fail to exercise proper care and control of his or her dog to prevent said dog from becoming a public nuisance as defined below with the accompanying fine schedule:

Barking frequently or for continued duration or making sounds which create a noise disturbance across a real property boundary:

First Offense: \$25.00, Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Molesting people or chasing vehicles:

First Offense: \$25.00, Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Attacking people, including biting, or domestic animals:

First Offense: \$100.00, Second Offense: \$200.00, 3rd and subsequent offenses: \$300.00

Trespassing on school grounds or other public land where dogs are banned or trespassing upon private property.

The penalty for violations shall be \$25 for the first offense and \$50 for each additional offense.

First Offense: \$25.00 Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Violation of Section 88-1 Leash Required:

First Offense: \$25.00 Second Offense: \$50.00, 3rd and subsequent offenses: \$100.00

Violation of Section 88-3 Restraint Order:

First Offense: \$100.00, Second Offense \$200.00 3rd and subsequent offenses: \$300.00

Violations of this bylaw may be handled as a non-criminal offense in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 21 D with the North Andover Police Department including the Community Service Officer being the enforcing officer for violations of this by law. However, nothing in this section shall be construed as limiting the authority of the Board of Selectmen as provided by Massachusetts General Laws, Chapter 140, Section 157.

Board of Selectmen

VOTED MAY 21, 2007

ATTEST:
A True Copy

Joyce A. Lonsdale
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 48 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 48. Amend Chapter 69 of the General Bylaws – Fire Alarms. To see if the Town will vote to amend the General Bylaws for the Town of North Andover, Chapter 69, Article I (Fire Detection and Alarm Systems), Sections 69-1 through 69-8.1) by replacing the existing text in its entirety. This bylaw is being updated to recognize new alarm technology, and for other purposes.

Chapter 69, Sections 69-1 through 69-8.1 are to be amended by removing the text shown as stricken, and adding the text shown as underlined.

ARTICLE I

Fire Detection and Alarm Systems

§ 69-1 Purpose and Scope

This by-law shall apply to the installation, operation and maintenance of fire and medical aid alarm systems. Fire, carbon monoxide and medical aid alarm systems shall include systems connected to the North Andover Fire Department by municipal fire alarm circuit, direct wire, wireless, or on a telephone dial up basis and systems which use exterior audible signals at the alarm location as a function of the connected system.

By definition, "Alarm Systems" are those installed for the purpose of notification to the proper response authority of an emergency situation at a property where the component devices of the system are installed.

§ 69-2 Alarm Installation and Permit Requirements

ATTEST

A True Copy

Joyce A. Bradshaw

Town Clerk

- a. As of the effective date of this by-law, no alarm system or equipment designed to summon the Fire Department shall be installed without a permit signed by the Fire Chief or his designee. ~~Existing fire alarm systems must obtain a permit within three (3) months of the effective date of this by-law. The Fire Chief shall prescribe an application form for the implementation of this by-law. The fee for this alarm permit shall be ten dollars (\$10.00). The Fire Department shall be called to inspect the installation after its completion, for which inspection there will be a fee of fifteen dollars (\$15.00). The issuance of permits shall be in compliance with Massachusetts General Law Chapter 148 Section 10 A.~~

Changes in the permit or inspection fees may be made with sixty (60) days notice to the general public and with the approval of the Board of Selectmen.

- b. Any current or future alarm user may contract with an alarm company of their choice for the purchase, lease, installation and servicing of an alarm system on their premises.
- ~~c. Telephone dialers using voice type tape recorders must be compatible with the alarm receiving devices at the Fire Department. Equipment as described shall use the emergency Fire Department telephone number designated for that purpose.~~
- D. C.** Actual connection to the Fire Department's alarm receiving system will be made only by an installer approved by the Fire Chief for this service through the issuance of a permit as per Massachusetts General Law Chapter 148 Section 10A.
- D.** As of July 1, 2007 connection to the Fire Department's alarm receiving system will be performed only through approved radio master fire alarm boxes.
- E.** As of July 1, 2007 all buildings and structures connected to the Fire Department's alarm receiving system will be advised that as of July 1, 2012 master fire alarm boxes connected through the hard wired municipal circuit system must be replaced with a radio master box compatible with the Fire Department's alarm receiving equipment. The master boxes on the buildings remain the property of the property owner but must be removed from their location to avoid perceptions that they are connected to the Fire Department. These wireless devices shall be installed and maintained in accordance with the appropriate sections of the then current editions of the following NFPA Standards: NFPA 72 National Fire Alarm Code- NFPA 1221 Standard for the Installation, Maintenance and Use of Emergency Services Communication Systems- NFPA 70 National Electrical Code and all reference documents contained within these codes and the related rules and regulations of the North Andover Fire Department.
- E. F.** The alarm system owner or user, or the alarm company contracting for the servicing of the alarm users system, shall be responsible for ~~obtaining any necessary leased lines or municipal cable between the protected location and the Fire Department alarm receiving equipment.~~ the care and maintenance of the wireless master fire alarm box transmitting device.
- F. G.** The Fire Department will make every effort to insure the proper operation of ~~its~~ the alarm receiving equipment, but accepts no liability for conditions, which prevent proper reception of signals from the user's premises. The mounting locations for radio boxes shall require pre-approval of the North Andover Fire Department.

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

§ 69-3 Alarm Disconnection and Alteration Notice

Whenever an alarm system or equipment is to be disconnected, removed or altered, the owner or user thereof shall notify the Fire Department ~~in writing~~. This notice shall be ~~done~~ in accordance with ~~Mass. Building Code Section 1200.3 Maintenance~~ and M.G.L. Chapter 148 Section 10A, Section 27A, and Section 28.

§ 69-4 Automatic Shut Off Requirement

All alarm systems installed after the effective date of this bylaw which use an exterior audible alarm device(s), shall be equipped with a timing unit, which silences the exterior audible device no less than five minutes and no more than ten minutes after the activation of the alarm system.

~~All existing alarms using an exterior audible alarm device should be equipped with such device within twelve (12) months after the effective date of this by-law.~~

This section shall not apply to audible automatic fire sprinkler alarm bells either mechanical or electrical, which are used to indicate water flow.

§ 69-5 Alarm System Regulations and Maintenance

- A. Each alarm user shall submit to the Fire Chief, the names, addresses and telephone numbers of at least two (2) persons who can be reached at any time, day or night, ~~and who~~ are authorized to gain access to the protected premises for the purpose of silencing and resetting the alarm system. It shall be the alarm users responsibility to keep this information up to date and current. In addition, each control panel shall have located inside the door, the above mentioned information, as well as the name, address and twenty-four (24) hour telephone number of the company or individual who currently services the system.
- B. Written instructions for re-setting the alarm system shall be clearly visible on, or adjacent to, the system control panel. Once activated, the system shall not be reset prior to the arrival of the Fire Department. Any attempt to reset a system connected directly to the Fire Department shall be considered a violation of Massachusetts General Law Chapter 268 Section 32 ~~of the Chapter 268~~ (tampering with a fire alarm signal).

If after three (3) attempts by the fire department, a zone of system will not reset, the zone, or system, shall be left in an un-restored condition. The Fire Department will attempt to notify the responsible parties identified in Section 69-5 (a) of this by-law. The Town assumes no liability for inability to contact listed persons or companies. The Fire Chief or his designee may assign a paid detail to monitor the premises until such responsible parties have arrived at the protected location. The cost of that detail and any equipment associated with it shall be born by the owner, purchaser, lessee or renter of the system.

ATTEST:
A True Copy
Joyce A. Lusskamm
Town Clerk

- C. All premises shall have their legal street number posted clearly visible as per ~~existing town by-law~~ Massachusetts General Law Chapter 148 Section 59 prior to connection of any alarm to the Fire Department.
- D. All premises requiring a secured key access box as per Town by-law Section 68-~~4-1~~ 69-8.1 shall have the device installed prior to issuance of a fire alarm permit.

§ 69-6 Alarm Tests

No alarm system designed to transmit emergency messages or signals directly to the Fire Department or through the dispatch center for the fire department shall be worked on, tested or demonstrated without first obtaining permission from the Fire Chief or his designee in accordance with Massachusetts General Law Chapter 148 Section 27A. An alarm transmitted when such work is being performed without permission will constitute a false alarm and subject to the fee assessment as shown in Section 7.0.

§ 69-7 False Alarm Assessment

Definition: ~~The term "False Alarm" as used in this section, includes accidental alarms caused by equipment malfunction, as well as deliberate and unnecessary activation of the system.~~

- A. Alarm systems which generate false alarms ~~in any twelve (12) month period~~ shall be subject to the following assessment initially established:
Fire Alarm, Carbon Monoxide Alarm & Emergency Medical Systems

FALSE ALARM ASSESSMENT

1 THROUGH 3	<i>NONE</i>	
4 THROUGH 5	\$200 EACH	<u>\$300 EACH</u>
6 OR MORE	\$500 EACH	<u>The current costs for all the personnel and equipment that respond to each call.</u>

The Fire Chief shall have the authority to waive the assessment if in his judgment extenuating circumstances justify such a waiver.

After a third false alarm ~~within twelve months~~, the Fire Chief shall notify the responsible party in writing that the next false alarm incident ~~within the current twelve (12) month period, from the date of the first false alarm~~, will result in an assessment charge.

Alarm users who present a valid service contract or similar agreement for the protected property will receive a twenty-five dollar (\$25.00) ~~full~~ credit against any assessment for the fourth false alarm only. It is the intent of this section to have the system maintained on a regular basis.

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk

- B. False alarms caused by faulty telephone service, municipal equipment or electrical storms will be excluded from assessment.
- C. False alarms received during the first thirty (30) days following installation shall ~~be discounted~~ not be counted for the purposes of false alarm assessment, provided no malicious intent has occurred and every attempt has been made to rectify new installation defects.
- D. Determination that a false alarm has been transmitted will be the judgment of the Fire Chief or his duly appointed duty officer.
- E. Any person(s) who maliciously and/or intentionally activates a fire alarm device which automatically transmits an alarm to the Fire Department, when there is no fire or emergency situation, shall be fined. ~~one thousand dollars (\$1000.00)~~

§ 69-7.1 Connection Fees

Each alarm user shall on or before October 1st of each year remit to the Fire Department a service fee for the coming year for Master Fire Alarm Boxes and Digital Alarms. The fees shall be established by the Board of Selectmen.

~~Locations that have multiple master boxes as required by the Fire Department shall be charged a fee for the initial fire alarm box only.~~

Those properties that convert to a radio control Master Box that is compatible with the North Andover Fire Department receiver shall no longer be billed the fee once the radio box is properly installed and functioning as approved by the North Andover Fire Department.

Fire alarm system devices owned by the Town of North Andover shall be exempt from the provisions of Sections 69-7 and 69-7.1.

Until a new fee is established by the Board of Selectmen, the Town shall continue to charge the same fees that were in effect immediately prior to the effective date of this bylaw.

§ 69-7.2 Violations

The following acts shall constitute a violation of these regulations and the responsible person or persons shall be punished by a fine of not less than \$50.00 nor more than \$200.00 per offense. (Each day in which a violation occurs will be considered a separate offense.)

- a. Failure to follow an order issued by the Fire Chief to disconnect a fire alarm system automatic notification device.
- b. Using a telephone-dialing device arranged to dial a Fire Department number without authorization under this by-law.
- c. Failure to pay any fee assessed under either or both Sections 69-7 or 69-7.1 of these regulations within sixty (60) days from the assessment.

ATTEST:

A True Copy

Joyce A. Lonsdale

Town Clerk

- d. Failure to comply with the requirements set forth in these regulations.
- e. Continued transmission of false alarms caused by the user's negligence or system malfunctions on the premises under the user's control where no effective effort is made to correct the condition.
- f. Knowingly failing to maintain any alarm system, covered by this by-law, in proper working order.
- g. Causing, through negligence, a condition, which interferes with the operation of, or causes damage to the municipal fire alarm system.
- h. Maliciously and/or intentionally activating a fire alarm device which automatically transmits an alarm to the Fire Department, when there is no fire or emergency situation.

§ 69-8 Forcible Entry of Unoccupied Premises

When the Fire Department responds to an alarm of fire, transmitted by a fire detection and alarm system, where the premises are unoccupied; the Department is unable to gain access to the structure; and is unable to contact any of the individuals listed, for access; the Fire Officer in command, may, if he has reasonable concern or suspicion that a fire exists within the structure, make a forcible entry to determine whether or not fire conditions exists. If this action becomes necessary, the Fire Officer shall:

- A. Notify the Police Department of this action.
- B. Secure the premises insofar as feasible.
- C. Continue efforts to contact the individuals listed as responsible for the structure.
- D. Enter the action taken in the Fire Department log.

§ 69-8.1 Secured Key Access

Any building other than a residential building of fewer than six (6) units which has a fire alarm system or other fire protection systems shall provide a secure key box installed in a location accessible to the Fire Department in case of emergency. This key box shall contain keys to fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be a type approved by the Chief of the North Andover Fire Department and shall be located and installed as approved by the Chief. Any building owner violating this Article after receiving due notice by the Fire Department shall be subject to the provisions of the Non-Criminal Disposition Violations Chapter 40 §21D.

Fire Chief

VOTED MAY 21, 2007

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 49 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 14, 2007, May 15, 2007, May 21, 2007 and June 4, 2007:

Article 49. Repeal General Bylaw, Chapter 101 Section 2 – Fees, Residuals Management Facility - Fee in Lieu of Taxes. UNANIMOUSLY VOTED to amend the General Bylaws of the Town of North Andover by deleting Chapter 101 Section 2, “Fees; Residuals Management Facility – Fee in Lieu of Taxes” in its entirety. This section was previously adopted under Article 17 of the 1998 Annual Town Meeting;

Board of Selectmen

VOTED MAY 21, 2007

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk